

Calendar No. 282

108TH CONGRESS
1ST SESSION**S. 1618**

To reauthorize Federal Aviation Administration Programs for the period beginning on October 1, 2003, and ending on March 31, 2004, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2003

Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. LAUTENBERG, and Mr. NELSON of Florida) introduced the following bill; which was read the first time

SEPTEMBER 17, 2003

Read the second time and placed on the calendar

A BILL

To reauthorize Federal Aviation Administration Programs for the period beginning on October 1, 2003, and ending on March 31, 2004, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Temporary Federal Aviation Administration Reauthor-
6 ization Act of 2003”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Amendments to title 49, United States Code.
 Sec. 3. Applicability.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding of FAA Programs

- Sec. 101. Airport planning and development and noise compatibility planning and programs.
 Sec. 102. Air navigation facilities and equipment.
 Sec. 103. Federal Aviation Administration operations.
 Sec. 104. Funding for aviation programs.
 Sec. 105. Agreements for operation of airport facilities.
 Sec. 106. Flexible funding for nonprimary airport apportionments.

Subtitle B—AIP Modifications

- Sec. 121. Apportionments to primary airports.
 Sec. 122. Temporary increase in government share of certain aip project costs.

Subtitle C—Miscellaneous

- Sec. 141. Midway Island airport.
 Sec. 142. Marshall Islands, Micronesia, and Palau.

TITLE II—AIRLINE SERVICE IMPROVEMENTS

- Sec. 201. Essential air service authorization.
 Sec. 202. Small community air service.
 Sec. 203. Hold harmless provision for essential air service.

TITLE III—AVIATION SECURITY

- Sec. 301. Crew training.
 Sec. 302. CAPPS2.
 Sec. 303. Report on passenger prescreening program.
 Sec. 304. Flight training.
 Sec. 305. Prohibition on air traffic control privatization.

TITLE IV—AVIATION RESEARCH

- Sec. 401. Authorization of appropriations.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

- Sec. 501. Extension of expenditure authority.
 Sec. 502. Technical correction to flight segment.

1 **SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

2 Except as otherwise expressly provided, whenever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or a repeal of, a section or other
 5 provision, the reference shall be considered to be made to
 6 a section or other provision of title 49, United States
 7 Code.

8 **SEC. 3. APPLICABILITY.**

9 Except as otherwise specifically provided, this Act
 10 and the amendments made by this Act shall apply only
 11 to fiscal years beginning after September 30, 2003.

12 **TITLE I—AIRPORT AND AIRWAY**
 13 **IMPROVEMENTS**
 14 **Subtitle A—Funding of FAA**
 15 **Programs**

16 **SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND**
 17 **NOISE COMPATIBILITY PLANNING AND PRO-**
 18 **GRAMS.**

19 (a) AUTHORIZATION.—Section 48103 is amended—

20 (1) by striking “September 30, 1998,” and in-
 21 serting “September 30, 2003,”; and

22 (2) by striking “shall be—” and all that follows
 23 through “Such” and inserting “\$1,700,000,000 for
 24 the period beginning on October 1, 2003, and ending
 25 on March 31, 2004. Such”.

1 (b) OBLIGATIONAL AUTHORITY.—Section 47104(c)
 2 is amended by striking “September 30, 2003,” and insert-
 3 ing “September 30, 2004,”.

4 **SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.**

5 Section 48101 is amended—

6 (1) in subsection (a) by striking “title:” and all
 7 that follows and inserting “title \$1,569,000,000 for
 8 the period beginning on October 1, 2003, and ending
 9 on March 31, 2004,.”; and

10 (2) by striking subsections (b), (d), and (e) and
 11 redesignating subsection (c) as subsection (b).

12 **SEC. 103. FEDERAL AVIATION ADMINISTRATION OPER-**
 13 **ATIONS.**

14 (a) IN GENERAL.—Section 106(k)(1) is amended to
 15 read as follows:

16 “(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to
 17 the Secretary of Transportation for salaries, oper-
 18 ations, and maintenance of the Administration
 19 \$3,795,500,000 for the period beginning on October
 20 1, 2003, and ending on March 31, 2004. Such sums
 21 shall remain available until expended.”.

22 (b) AUTHORIZED EXPENDITURES.—Section
 23 106(k)(2) is amended—
 24

1 (1) by striking subparagraphs (A) and (B) and
 2 subparagraphs (F) through (I);

3 (2) by redesignating subparagraphs (C), (D),
 4 and (E) as subparagraphs (A), (B), and (C), respec-
 5 tively;

6 (3) in subparagraphs (A), (B), and (C) (as so
 7 redesignated) by striking “fiscal years 2000 through
 8 2003” and inserting “the period beginning on Octo-
 9 ber 1, 2003, and ending on March 31, 2004,”; and

10 (c) AIRLINE DATA AND ANALYSIS.—There is author-
 11 ized to be appropriated to the Secretary of Transportation,
 12 out of the Airport and Airway Trust Fund established by
 13 section 9502 of the Internal Revenue Code of 1986 (26
 14 U.S.C. 9502), \$1,895,500 for the period beginning on Oc-
 15 tober 1, 2003, and ending on March 31, 2004, to gather
 16 aviation data and conduct analyses of such data in the
 17 Bureau of Transportation Statistics of the Department of
 18 Transportation.

19 **SEC. 104. FUNDING FOR AVIATION PROGRAMS.**

20 (a) IN GENERAL.—Chapter 481 is amended by add-
 21 ing at the end the following:

22 **“§ 48114. Funding for aviation programs**

23 **“(a) AUTHORIZATION OF APPROPRIATIONS.—**

24 **“(1) AIRPORT AND AIRWAY TRUST FUND GUAR-**
 25 **ANTEE.—**

1 “(A) IN GENERAL.—The total budget re-
2 sources made available from the Airport and
3 Airway Trust Fund for the period beginning on
4 October 1, 2003, and ending on March 31,
5 2004, pursuant to sections 48101, 48102,
6 48103, and 106(k) of title 49, United States
7 Code, shall be equal to the level of receipts plus
8 interest credited to the Airport and Airway
9 Trust Fund for that fiscal year. Such amounts
10 may be used only for aviation investment pro-
11 grams listed in subsection (b).

12 “(B) GUARANTEE.—No funds may be ap-
13 propriated or limited for aviation investment
14 programs listed in subsection (b) unless the
15 amount described in subparagraph (A) has been
16 provided.

17 “(2) ADDITIONAL AUTHORIZATIONS OF APPRO-
18 PRIATIONS FROM THE GENERAL FUND.—In the pe-
19 riod beginning on October 1, 2003, and ending on
20 March 31, 2004, if the amount described in para-
21 graph (1) is appropriated, there is further author-
22 ized to be appropriated from the general fund of the
23 Treasury such sums as may be necessary for the
24 Federal Aviation Administration Operations account.

25 “(b) DEFINITIONS.—In this section:

1 “(1) TOTAL BUDGET RESOURCES.—The term
2 ‘total budget resources’ means the total amount
3 made available from the Airport and Airway Trust
4 Fund for the sum of obligation limitations and budg-
5 et authority made available for a fiscal year for the
6 following budget accounts that are subject to the ob-
7 ligation limitation on contract authority provided in
8 this Act and for which appropriations are provided
9 pursuant to authorizations contained in this Act:

10 “(A) 69–8106–0–7–402 (Grants in Aid for
11 Airports).

12 “(B) 69–8107–0–7–402 (Facilities and
13 Equipment).

14 “(C) 69–8108–0–7–402 (Research and De-
15 velopment).

16 “(D) 69–8104–0–7–402 (Trust Fund
17 Share of Operations).

18 “(2) LEVEL OF RECEIPTS PLUS INTEREST.—
19 The term ‘level of receipts plus interest’ means the
20 level of excise taxes and interest credited to the Air-
21 port and Airway Trust Fund under section 9502 of
22 the Internal Revenue Code of 1986 for a fiscal year
23 as set forth in the President’s budget baseline pro-
24 jection as defined in section 257 of the Balanced
25 Budget and Emergency Deficit Control Act of 1985

(Public Law 99–177) (Treasury identification code 20–8103–0–7–402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

“(c) ENFORCEMENT OF GUARANTEES.—

“(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

“(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for fiscal year 2004 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
 2 chapter 481 is amended by adding at the end the fol-
 3 lowing:

“48114. Funding for aviation programs.”.

4 (c) REPEAL.—Section 106 of the Wendell H. Ford
 5 Aviation Investment and Reform Act for the 21st Century
 6 (49 U.S.C. 48101 note) is repealed.

7 **SEC. 105. AGREEMENTS FOR OPERATION OF AIRPORT FA-**
 8 **CILITIES.**

9 Section 47124 is amended—

10 (1) in (b)(3) by—

11 (A) in the paragraph heading by striking
 12 “PILOT”;

13 (B) by striking “pilot” each place it ap-
 14 pears; and

15 (C) in subparagraph (E) by striking
 16 “\$6,000,000 per fiscal year” and inserting
 17 “\$3,250,000 for the period beginning on Octo-
 18 ber 1, 2003, and ending on March 31, 2004,”;
 19 and

20 (2) in subsection (b)(4)(C) by striking
 21 “\$1,100,000.” and inserting “\$1,500,000.”.

1 **SEC. 106. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT**
 2 **APPORTIONMENTS.**

3 (a) PROJECT GRANT AGREEMENTS.—Section
 4 47108(a) is amended by inserting “or 47114(d)(3)(A)”
 5 after “under section 47114(c)”.

6 (b) ALLOWABLE PROJECT COSTS.—Section 47110 is
 7 amended—

8 (1) in subsection (b)(2)(C) by striking “of this
 9 title” and inserting “or section 47114(d)(3)(A)”;

10 (2) in subsection (g)—

11 (A) by inserting “or section
 12 47114(d)(3)(A)” after “of section 47114(c)”;
 13 and

14 (B) by striking “of project” and inserting
 15 “of the project”; and

16 (3) by adding at the end the following:

17 “(h) NONPRIMARY AIRPORTS.—The Secretary may
 18 decide that the costs of revenue producing aeronautical
 19 support facilities, including fuel farms and hangars, are
 20 allowable for an airport development project at a nonpri-
 21 mary airport if the Government’s share of such costs is
 22 paid only with funds apportioned to the airport sponsor
 23 under section 47114(d)(3)(A) and if the Secretary deter-
 24 mines that the sponsor has made adequate provision for
 25 financing airside needs of the airport.”.

1 (c) WAIVER.—Section 47117(c)(2) is amended to
2 read as follows:

3 “(2) WAIVER.—A sponsor of an airport may
4 make an agreement with the Secretary of Transpor-
5 tation waiving the sponsor’s claim to any part of the
6 amount apportioned for the airport under sections
7 47114(c) and 47114(d)(3)(A) if the Secretary
8 agrees to make the waived amount available for a
9 grant for another public-use airport in the same
10 State or geographical area as the airport, as deter-
11 mined by the Secretary.”.

12 (d) TERMINAL DEVELOPMENT COSTS.—Section
13 47119(b) is amended—

14 (1) by striking “or” at the end of paragraph
15 (3);

16 (2) by striking the period at the end of para-
17 graph (4) and inserting “; or”; and

18 (3) by adding at the end the following:

19 “(5) to a sponsor of a nonprimary airport, any
20 part of amounts apportioned to the sponsor for the
21 fiscal year under section 47114(d)(3)(A) for project
22 costs allowable under section 47110(d).”.

1 **Subtitle B—AIP Modifications**

2 **SEC. 121. APPORTIONMENTS TO PRIMARY AIRPORTS.**

3 (a) IN GENERAL.—Section 47114(c)(1) is amended
4 by adding at the end the following:

5 “(F) SPECIAL RULE FOR FISCAL YEAR
6 2004.—Notwithstanding subparagraph (A) and
7 the absence of scheduled passenger aircraft
8 service at an airport, the Secretary may appor-
9 tion in the period beginning on October 1,
10 2003, and ending on March 31, 2004, to the
11 sponsor of the airport an amount equal to the
12 amount apportioned to that sponsor in fiscal
13 year 2002 or 2003, whichever amount is great-
14 er, if the Secretary finds that—

15 “(i) the passenger boardings at the
16 airport were below 10,000 in calendar year
17 2002 or 2003;

18 “(ii) the airport had at least 10,000
19 passenger boardings and scheduled pas-
20 senger aircraft service in either calendar
21 year 2000 or 2001; and

22 “(iii) the reason that passenger
23 boardings described in clause (i) were
24 below 10,000 was the decrease in pas-

1 sengers following the terrorist attacks of
 2 September 11, 2001.”.

3 (b) SPECIAL RULE FOR TRANSITIONING AIR-
 4 PORTS.—Section 47114(f)(3) is amended—

5 (1) in the paragraph heading by striking
 6 “AIRORTS” and inserting “AIRPORTS”; and

7 (2) in subparagraph (B) by striking “fiscal
 8 years 2000 through 2003” and inserting “fiscal year
 9 2004”.

10 **SEC. 122. TEMPORARY INCREASE IN GOVERNMENT SHARE**
 11 **OF CERTAIN AIP PROJECT COSTS.**

12 Notwithstanding section 47109(a) of title 49, United
 13 States Code, the Government’s share of allowable project
 14 costs for a grant made in the period beginning on October
 15 1, 2003, and ending on March 31, 2004, under chapter
 16 471 of that title for a project described in paragraph (2)
 17 or (3) of that section shall be 95 percent.

18 **Subtitle C—Miscellaneous**

19 **SEC. 141. MIDWAY ISLAND AIRPORT.**

20 (a) FUNDING TO SECRETARY OF THE INTERIOR FOR
 21 MIDWAY ISLAND AIRPORT.—The Secretary of Transpor-
 22 tation may enter into a reimbursable agreement with the
 23 Secretary of the Interior for the purpose of funding air-
 24 port development, as defined in section 47102(3) of title
 25 49, United States Code, at Midway Island Airport for the

1 period beginning on October 1, 2003, and ending on
 2 March 31, 2004, from amounts available in the discre-
 3 tionary fund established by section 47115 of such title.
 4 The maximum obligation under the agreement for any
 5 such fiscal year shall be \$2,500,000.

6 **SEC. 142. MARSHALL ISLANDS, MICRONESIA, AND PALAU.**

7 Section 47115 is amended by adding at the end the
 8 following:

9 “(j) MARSHALL ISLANDS, MICRONESIA, AND
 10 PALAU.—For the period beginning on October 1, 2003,
 11 and ending on March 31, 2004, the sponsors of airports
 12 located in the Republic of the Marshall Islands, Federated
 13 States of Micronesia, and Republic of Palau shall be eligi-
 14 ble for grants under this section and section 47116.”.

15 **TITLE II—AIRLINE SERVICE**
 16 **IMPROVEMENTS**

17 **SEC. 201. ESSENTIAL AIR SERVICE AUTHORIZATION.**

18 Section 41742 is amended—

19 (1) in subsection (a)(2)—

20 (A) by striking “\$15,000,000 for each fis-
 21 cal year” and inserting “\$38,500,000 for the
 22 period beginning on October 1, 2003, and end-
 23 ing on March 31, 2004,”; and

24 (B) by inserting before the period at the
 25 end “of which not more than \$6,000,000 may

1 be used for the marketing incentive program for
 2 communities and for State marketing assist-
 3 ance”;

4 (2) by adding at the end of subsection (a) the
 5 following:

6 “(3) AUTHORIZATION FOR ADDITIONAL EM-
 7 PLOYEES.—In addition to amounts authorized under
 8 paragraphs (1) and (2), there are authorized to be
 9 appropriated such sums as may be necessary for the
 10 Secretary of Transportation to hire and employ 4
 11 additional employees for the office responsible for
 12 carrying out the essential air service program.”; and

13 (3) by striking subsection (c) and redesignating
 14 subsection (d) as subsection (c).

15 **SEC. 202. SMALL COMMUNITY AIR SERVICE.**

16 Section 41743 is amended by inserting after “2003”
 17 the following “, and \$17,500,000 for the period beginning
 18 on October 1, 2003, and ending on March 31, 2004,”; and

19 (5) in subsection (f) by striking “pilot”.

20 **SEC. 203. HOLD HARMLESS PROVISION FOR ESSENTIAL AIR**
 21 **SERVICE.**

22 (a) IN GENERAL.—Where a determination of high-
 23 way mileage affects eligibility for essential air service sub-
 24 sidies under title 49, United States Code, the Secretary
 25 of Transportation shall consider all commonly traveled

1 highway routes. Where the choice of a route can affect
 2 eligibility, the Secretary shall use the route that preserves
 3 the subsidy in making that determination.

4 (b) APPLICATION TO CERTAIN TERMINATIONS.—
 5 Subsection (a) applies to—

6 (1) any determination made after the date of
 7 enactment of this Act; and

8 (2) any determination made with respect to any
 9 formerly eligible place terminated from the essential
 10 air service program in the 2-year period prior to that
 11 date.

12 **TITLE III—AVIATION SECURITY**

13 **SEC. 301. CAPPS2.**

14 (a) IN GENERAL.—The Under Secretary for Border
 15 and Transportation Security of the Department of Home-
 16 land Security shall not implement, on other than a test
 17 basis, the computer assisted passenger prescreening sys-
 18 tem (commonly known as and in this section referred to
 19 as “CAPPS2”) until the Under Secretary provides to Con-
 20 gress a certification that—

21 (1) a procedure is established enabling airline
 22 passengers, who are delayed or prohibited from
 23 boarding a flight because CAPPS2 determined that
 24 they might pose a security threat, to appeal such de-

1 termination and correct information contained in
2 CAPPS2;

3 (2) the error rate of the Government and pri-
4 vate data bases that will be used to both establish
5 identity and assign a risk level to a passenger under
6 CAPPS2 will not produce a large number of false
7 positives that will result in a significant number of
8 passengers being mistaken as a security threat;

9 (3) the Under Secretary has demonstrated the
10 efficacy and accuracy of all search tools in CAPPS2
11 and has demonstrated that CAPPS2 can make an
12 accurate predictive assessment of those passengers
13 who would constitute a security threat;

14 (4) the Secretary of Homeland Security has es-
15 tablished an internal oversight board to oversee and
16 monitor the manner in which CAPPS2 is being im-
17 plemented;

18 (5) the Under Secretary has built in sufficient
19 operational safeguards to reduce the opportunities
20 for abuse;

21 (6) substantial security measures are in place to
22 protect CAPPS2 from unauthorized access by hack-
23 ers or other intruders;

1 (7) the Under Secretary has adopted policies
2 establishing effective oversight of the use and oper-
3 ation of the system; and

4 (8) there are no specific privacy concerns with
5 the technological architecture of the system.

6 (b) GAO REPORT.—Not later than 90 days after the
7 date on which certification is provided under subsection
8 (a), the Comptroller General shall submit a report to the
9 Committees on Appropriations of the House of Represent-
10 atives and the Senate, the Committee on Transportation
11 and Infrastructure of the House of Representatives, and
12 the Committee on Commerce, Science and Transportation
13 of the Senate that assesses the impact of CAPPSS2 on the
14 issues listed in subsection (a) and on privacy and civil lib-
15 erties. The report shall include any recommendations for
16 practices, procedures, regulations, or legislation to elimi-
17 nate or minimize adverse effect of CAPPSS2 on privacy,
18 discrimination, and other civil liberties.

19 **SEC. 303. REPORT ON PASSENGER PRESCREENING PRO-**
20 **GRAM.**

21 (a) IN GENERAL.—Within 90 days after the date of
22 enactment of this Act, the Secretary of Homeland Secu-
23 rity, after consultation with the Attorney General, shall
24 submit a report in writing to the Senate Committee on
25 Commerce, Science, and Transportation and the House of

1 Representatives Committee on Transportation and Infra-
2 structure on the potential impact of the Transportation
3 Security Administration's proposed Computer Assisted
4 Passenger Prescreening system, commonly known as
5 CAPPS2, on the privacy and civil liberties of United
6 States citizens.

7 (b) SPECIFIC ISSUES TO BE ADDRESSED.—The re-
8 port shall address the following:

9 (1) Whether and for what period of time data
10 gathered on individual travelers will be retained, who
11 will have access to such data, and who will make de-
12 cisions concerning access to such data.

13 (2) How the Transportation Security Adminis-
14 tration will treat the scores assigned to individual
15 travelers to measure the likelihood they may pose a
16 security threat, including how long such scores will
17 be retained and whether and under what cir-
18 cumstances they may be shared with other govern-
19 mental, nongovernmental, or commercial entities.

20 (3) The role airlines and outside vendors or
21 contractors will have in implementing and operating
22 the system, and to what extent will they have access,
23 or the means to obtain access, to data, scores, or
24 other information generated by the system.

1 (4) The safeguards that will be implemented to
 2 ensure that data, scores, or other information gen-
 3 erated by the system will be used only as officially
 4 intended.

5 (5) The procedures that will be implemented to
 6 mitigate the effect of any errors, and what proce-
 7 dural recourse will be available to passengers who
 8 believe the system has wrongly barred them from
 9 taking flights.

10 (6) The oversight procedures that will be imple-
 11 mented to ensure that, on an ongoing basis, privacy
 12 and civil liberties issues will continue to be consid-
 13 ered and addressed with high priority as the system
 14 is installed, operated, and updated.

15 **SEC. 304. FLIGHT TRAINING.**

16 (a) IN GENERAL.—Section 44939 is amended to read
 17 as follows:

18 **“§ 44939. Training to operate certain aircraft**

19 “(a) WAITING PERIOD.—A person operating as a
 20 flight instructor, pilot school, or aviation training center
 21 or subject to regulation under this part may provide train-
 22 ing in the operation of any aircraft having a maximum
 23 certificated takeoff weight of more than 12,500 pounds
 24 to an alien (as defined in section 101(a)(3) of the Immi-
 25 gration and Nationality Act (8 U.S.C. 1101(a)(3))) or to

1 any other individual specified by the Secretary of Home-
2 land Security only if—

3 “(1) that person has first notified the Secretary
4 that the alien or individual has requested such train-
5 ing and submitted to the Secretary, in such form as
6 the Secretary may prescribe, the following informa-
7 tion about the alien or individual:

8 “(A) full name, including any aliases used
9 by the applicant or variations in spelling of the
10 applicant’s name;

11 “(B) passport and visa information;

12 “(C) country of citizenship;

13 “(D) date of birth;

14 “(E) dates of training; and

15 “(F) fingerprints collected by, or under the
16 supervision of, a Federal, State, or local law en-
17 forcement agency or by another entity approved
18 by the Federal Bureau of Investigation or the
19 Secretary of Homeland Security, including fin-
20 gerprints taken by United States Government
21 personnel at a United States embassy or con-
22 sulate; and

23 “(2) the Secretary has not directed, within 30
24 days after being notified under paragraph (1), that
25 person not to provide the requested training because

1 the Secretary has determined that the individual
2 presents a risk to aviation or national security.

3 “(b) INTERRUPTION OF TRAINING.—If the Secretary
4 of Homeland Security, more than 30 days after receiving
5 notification under subsection (a) from a person providing
6 training described in subsection (a), determines that the
7 individual presents a risk to aviation or national security,
8 the Secretary shall immediately notify the person pro-
9 viding the training of the determination and that person
10 shall immediately terminate the training.

11 “(c) NOTIFICATION.—A person operating as a flight
12 instructor, pilot school, or aviation training center or sub-
13 ject to regulation under this part may provide training in
14 the operation of any aircraft having a maximum certifi-
15 cated takeoff weight of 12,500 pounds or less to an alien
16 (as defined in section 101(a)(3) of the Immigration and
17 Nationality Act (8 U.S.C. 1101(a)(3))) or to any other
18 individual specified by the Secretary of Homeland Security
19 only if that person has notified the Secretary that the indi-
20 vidual has requested such training and furnished the Sec-
21 retary with that individual’s identification in such form
22 as the Secretary may require.

23 “(d) EXPEDITED PROCESSING.—Not later than 60
24 days after the date of enactment of this section, the Sec-
25 retary shall establish a process to ensure that the waiting

1 period under subsection (a) shall not exceed 5 days for
 2 an alien (as defined in section 101(a)(3) of the Immigra-
 3 tion and Nationality Act (8 U.S.C. 1101(a)(3))) who—

4 “(1) holds an airman’s certification of a foreign
 5 country that is recognized by an agency of the
 6 United States, including a military agency, that per-
 7 mits an individual to operate a multi-engine aircraft
 8 that has a certificated takeoff weight of more than
 9 12,500 pounds;

10 “(2) is employed by a foreign air carrier that
 11 is certified under part 129 of title 14, Code of Fed-
 12 eral Regulations, and that has a security program
 13 approved under section 1546 of title 49, Code of
 14 Federal Regulations;

15 “(3) is an individual that has unescorted access
 16 to a secured area of an airport designated under sec-
 17 tion 44936(a)(1)(A)(ii); or

18 “(4) is an individual that is part of a class of
 19 individuals that the Secretary has determined that
 20 providing aviation training to presents minimal risk
 21 to aviation or national security because of the avia-
 22 tion training already possessed by such class of indi-
 23 viduals.

24 “(e) TRAINING.—In subsection (a), the term ‘train-
 25 ing’ means training received from an instructor in an air-

1 craft or aircraft simulator and does not include recurrent
2 training, ground training, or demonstration flights for
3 marketing purposes.

4 “(f) NONAPPLICABILITY TO CERTAIN FOREIGN MILI-
5 TARY PILOTS.—The procedures and processes required by
6 subsections (a) through (d) shall not apply to a foreign
7 military pilot endorsed by the Department of Defense for
8 flight training in the United States and seeking training
9 described in subsection (e) in the United States.

10 “(g) FEE.—

11 “(1) IN GENERAL.—The Secretary of Homeland
12 Security may assess a fee for an investigation under
13 this section, which may not exceed \$100 per indi-
14 vidual (exclusive of the cost of transmitting finger-
15 prints collected at overseas facilities) during fiscal
16 years 2003 and 2004. For fiscal year 2005 and
17 thereafter, the Secretary may adjust the maximum
18 amount of the fee to reflect the costs of such an
19 investigation.

20 “(2) OFFSET.—Notwithstanding section 3302
21 of title 31, any fee collected under this section—

22 “(A) shall be credited to the account in the
23 Treasury from which the expenses were in-
24 curred and shall be available to the Secretary
25 for those expenses; and

1 “(B) shall remain available until expended.

2 “(h) INTERAGENCY COOPERATION.—The Attorney
3 General, the Director of Central Intelligence, and the Ad-
4 ministrator of the Federal Aviation Administration shall
5 cooperate with the Secretary in implementing this section.

6 “(i) SECURITY AWARENESS TRAINING FOR EMPLOY-
7 EES.—The Secretary shall require flight schools to con-
8 duct a security awareness program for flight school em-
9 ployees to increase their awareness of suspicious cir-
10 cumstances and activities of individuals enrolling in or at-
11 tending flight school.”.

12 (b) PROCEDURES.—

13 (1) IN GENERAL.—Not later than 60 days after
14 the date of enactment of this Act, the Secretary of
15 Homeland Security shall promulgate an interim final
16 rule to implement section 44939 of title 49, United
17 States Code, as amended by subsection (a).

18 (2) USE OF OVERSEAS FACILITIES.—In order to
19 implement section 44939 of title 49, United States
20 Code, as amended by subsection (a), United States
21 Embassies and Consulates that possess appropriate
22 fingerprint collection equipment and personnel cer-
23 tified to capture fingerprints shall provide finger-
24 print services to aliens covered by that section if the
25 Secretary requires fingerprints in the administration

1 of that section, and shall transmit the fingerprints
2 to the Secretary or other agency designated by the
3 Secretary. The Attorney General and the Secretary
4 of State shall cooperate with the Secretary of Home-
5 land Security in carrying out this paragraph.

6 (3) USE OF UNITED STATES FACILITIES.—If
7 the Secretary of Homeland Security requires
8 fingerprinting in the administration of section 44939
9 of title 49, United States Code, the Secretary may
10 designate locations within the United States that
11 will provide fingerprinting services to individuals
12 covered by that section.

13 (c) EFFECTIVE DATE.—The amendment made by
14 subsection (a) takes effect on the effective date of the in-
15 terim final rule required by subsection (b)(1).

16 (d) REPORT.—Not later than 1 year after the date
17 of enactment of this Act, the Secretary of Homeland Secu-
18 rity shall submit to the Senate Committee on Commerce,
19 Science, and Transportation and the House of Represent-
20 atives Committee on Transportation and Infrastructure a
21 report on the effectiveness of the activities carried out
22 under section 44939 of title 49, United States Code, in
23 reducing risks to aviation security and national security.

1 **SEC. 305. PROHIBITION ON AIR TRAFFIC CONTROL PRIVAT-**
2 **IZATION.**

3 (a) IN GENERAL.—The Secretary of Transportation
4 may not authorize the transfer to a private entity or to
5 a public entity other than the United States Government
6 of—

7 (1) the air traffic separation and control func-
8 tions operated by the Federal Aviation Administra-
9 tion on the date of enactment of this Act; or

10 (2) the functions related to certification of na-
11 tional airspace systems and services operated by the
12 Federal Aviation Administration on the date of en-
13 actment of this Act

14 (b) LIMITATIONS.—

15 (1) CONTRACT TOWERS.—Subsection (a) shall
16 not apply to a Federal Aviation Administration air
17 traffic control tower operated under the contract
18 tower program on the date of enactment of this Act
19 or to any expansion of that program under section
20 47124(b)(3) or 47124(b)(4) of title 49, United
21 States Code.

22 (2) SOFTWARE.—Subsection (a)(2) shall not
23 apply to the development or modification of soft-
24 ware.

25 (c) FLIGHT SERVICE STATIONS.—

1 (1) IN GENERAL.—Within 1 year after the date
2 of enactment of this Act, the Secretary shall trans-
3 mit to the Senate Committee on Commerce, Science,
4 and Transportation and the House of Representa-
5 tives Committee on Transportation and Infrastruc-
6 ture a report on the Federal Aviation Administra-
7 tion’s plan to revamp the flight service station pro-
8 gram. The report shall include—

9 (A) an analysis of the impact of the plan
10 on costs, effectiveness, and the need for
11 redundancies in the program;

12 (B) a comparison of the existing costs of
13 the program with alternatives;

14 (C) workforce needs (including any nec-
15 essary transition period); and

16 (D) space needs.

17 (2) LIMITATION.—The Secretary of Transpor-
18 tation may not authorize the transfer to a private
19 entity or to a public entity other than the United
20 States Government of the flight service station pro-
21 gram or any component thereof until the report re-
22 quired by paragraph (1) has been transmitted to the
23 Congress and the Congress has authorized any such
24 proposed transfer.

1 **TITLE IV—AVIATION RESEARCH**

2 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

3 Section 48102(a) of title 49, United States Code, is
4 amended—

5 (1) by striking “to carry out sections 44504”
6 and inserting “for conducting civil aviation research
7 and development under sections 44504”;

8 (2) by striking “and” at the end of paragraph
9 (7);

10 (3) by striking the period at the end of para-
11 graph (8) and inserting a semicolon; and

12 (4) by adding at the end the following:

13 “(9) for the period beginning on October 1,
14 2003, and ending on March 31, 2004,
15 \$173,158,500, including—

16 “(A) \$32,500,000 for Improving Aviation
17 Safety;

18 “(B) \$12,000,000 for Weather Safety Re-
19 search;

20 “(C) \$13,750,000 for Human Factors and
21 Aeromedical Research;

22 “(D) \$15,000,000 for Environmental Re-
23 search and Development, of which \$10,000,000
24 shall be for research activities related to reduc-

1 ing community exposure to civilian aircraft
2 noise or emissions;

3 “(E) \$3,500,000 for Research Mission
4 Support;

5 “(F) \$750,000 for carrying out subsection
6 (h) of this section;

7 “(G) \$21,400,000 for Advanced Tech-
8 nology Development and Prototyping;

9 “(H) \$15,150,000 for Safe Flight 21;

10 “(I) \$45,400,000 for the Center for Ad-
11 vanced Aviation System Development;

12 “(J) \$4,833,500 for Airports Technology-
13 Safety; and

14 “(K) \$3,875,000 for Airports Technology-
15 Efficiency.”.

16 **TITLE V—EXTENSION OF AIR-**
17 **PORT AND AIRWAY TRUST**
18 **FUND EXPENDITURE AU-**
19 **THORITY**

20 **SEC. 501. EXTENSION OF EXPENDITURE AUTHORITY.**

21 (a) IN GENERAL.—Paragraph (1) of section 9502(d)
22 of the Internal Revenue Code of 1986 (relating to expendi-
23 tures from Airport and Airway Trust Fund) is amended—

24 (1) by striking “October 1, 2003,” and insert-
25 ing “October 1, 2004,” and

1 (2) by inserting before the semicolon at the end
 2 of subparagraph (A) the following: “or the Federal
 3 Aviation Administration Reauthorization Act of
 4 2003”.

5 (b) CONFORMING AMENDMENT.—Paragraph (2) of
 6 section 9502(f) of the Internal Revenue Code of 1986 is
 7 amended by striking “October 1, 2003” and inserting
 8 “October 1, 2004”.

9 **SEC. 502. TECHNICAL CORRECTION TO FLIGHT SEGMENT.**

10 (a) SPECIAL RULE.—Section 4261(e)(4) of the Inter-
 11 nal Revenue Code of 1986 is amended by adding at the
 12 end the following new subparagraph:

13 “(D) SPECIAL RULE FOR AMOUNTS PAID
 14 FOR DOMESTIC SEGMENTS BEGINNING AFTER
 15 2002.—If an amount is paid during a calendar
 16 year for a domestic segment beginning in a
 17 later calendar year, then the rate of tax under
 18 subsection (b) on such amount shall be the rate
 19 in effect for the calendar year in which such
 20 amount is paid.”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 subsection (a) shall take effect as if included in the provi-
 23 sions of the Taxpayer Relief Act of 1997 to which they
 24 relate.

Calendar No. 282

108TH CONGRESS
1ST SESSION

S. 1618

A BILL

To reauthorize Federal Aviation Administration Programs for the period beginning on October 1, 2003, and ending on March 31, 2004, and for other purposes.

SEPTEMBER 17, 2003

Read the second time and placed on the calendar